

Exhibit H

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: PORK ANTITRUST LITIGATION

Civil Action No. 18-1776 (JRT/HB)

This Document Relates to:

All Actions

VIDEOTAPED TELECONFERENCE DEPOSITION
OF JEFFREY NUYTTEN

APPEARANCES NOTED WITHIN

DATE: THURSDAY, JULY 7, 2022

PLACE: VIA ZOOM

WITNESS LOCATED IN MINNEAPOLIS, MINNESOTA

TIME: 9:07 a.m.

BETHANY CAMMACK
Certified Shorthand Reporter
Mississippi CSR No. 1526

1 THE VIDEOGRAPHER: Good morning. We
2 are going on the record at 9:07 a.m. Central
3 Daylight Time on July 7th, 2022. This is Media
4 Unit No. 1 of the video recorded deposition of
5 Jeffrey Nuytten, taken by counsel for plaintiff in
6 the matter of Re: Pork Antitrust Litigation filed
7 in the United States District Court, District of
8 Minnesota, Case No. 18-1776 (JRG/HB).

9 This deposition is being held in
10 Minneapolis, Minnesota. My name is Brian Ciccone,
11 representing Veritext Legal Solutions, and I am the
12 videographer. Will the court reporter please swear
13 in the witness.

14 (OFF THE RECORD.)

15 JEFFREY NUYTTEN,
16 having been remotely sworn,
17 was examined and testified as follows:

18 EXAMINATION

19 BY MS. ALDRIDGE:

20 Q. Good morning, Mr. Nuytten.

21 A. Good morning.

22 Q. My name is Sterling Aldridge, and I
23 represent the Commercial and Institutional Indirect
24 Purchaser Plaintiffs in this case. It's nice to
25 meet you, even if I am appearing virtually. I'm

1 reviewing the Agri Stats reports in the first
2 instance?

3 A. In the first instance?

4 Q. Upon receipt of the Agri Stats reports,
5 who at Hormel was responsible for reviewing them?

6 A. We would get -- I would get a copy.

7 Q. And --

8 A. Cory, or director of pork, would get a
9 copy. And there was -- I forget who else got a
10 copy, but I would get a copy, and the director of
11 pork would get a copy.

12 Q. In the course of your duties would you
13 review the Agri Stats reports that you received?

14 A. There was a tremendous amount of data that
15 came in those reports, so I would -- front to back,
16 no. I would review them briefly. I'd go over the
17 reports that interested me in relation to the
18 effectiveness and the efficiency of our operations.
19 I would review those charts.

20 Q. Would you have meetings with others at
21 Hormel to discuss the Agri Stats reports that
22 Hormel received?

23 A. Yes.

24 Q. And would you describe those meetings as
25 regular meetings?

1 A. I don't remember how often we had a
2 meeting.

3 Q. But at those meetings you would go over
4 the reports received from Agri Stats with others.
5 Is that fair?

6 A. That is fair.

7 Q. Do you recall which Agri Stats reports
8 Hormel participated in and received?

9 A. Which reports they participated in and
10 received. The names of them?

11 Q. Yes. If you recall them.

12 A. I do not recall the specific name of it,
13 no.

14 Q. Do you know whether Hormel ever
15 participated in the Agri Stats sales reports?

16 A. Hormel did not participate in the sales
17 reports.

18 Q. Were you involved in the decision by
19 Hormel not to participate in the Agri Stats sales
20 reports?

21 A. I went to Paul Peil, asked him if he had
22 any interest, because Agri Stats had asked me. I
23 made that -- I made the overture to Paul, and he
24 said no, did not want to participate. And that's
25 where I left it.

1 Q. Did you have any concerns about
2 participating in the Agri Stats sales reports?

3 A. Did I have concerns? Wasn't my job to
4 make that call. That was Paul Peil's job.

5 Q. Were you aware of any concerns that
6 Mr. Peil had about Hormel participating in the Agri
7 Stats sales reports?

8 A. You'd have to ask Paul that question.

9 MR. MITCHELL: Can you pull up DAP
10 Tab 14, please? And I believe this should be
11 marked Deposition Exhibit 1030. Someone at
12 Veritext will correct me if I misstate that number,
13 but this Exhibit, 1030, is Bates stamped AGSTAT-P-
14 0003431573 on the first page.

15 (EXHIBIT 1030 WAS MARKED FOR THE RECORD.)

16 MR. MITCHELL CONTINUED:

17 Q. Do you have that document in front of you,
18 sir?

19 A. Yes.

20 Q. I want to direct -- strike that. I'd ask
21 you to turn to the second page of this email.

22 A. Yes.

23 Q. There's an email from you, dated June
24 14th, 2013 to Greg Bilbrey. Is that right?

25 MR. COLEMAN: Hang on.

1 THE WITNESS: No. It's Greg to me.

2 MR. COLEMAN: Mr. Nuytten, he's not
3 asking you to read the document, but I just want to
4 make sure you've had a chance to look at it.

5 THE WITNESS: Yeah.

6 MR. MITCHELL CONTINUED:

7 Q. I mean, if you'd like a minute to review
8 it, take a minute to review it, let me know when
9 you're done.

10 MR. COLEMAN: And, again, not to read
11 it cover to cover. I appreciate Counsel moving
12 things along, but also --

13 THE WITNESS: Okay.

14 MR. COLEMAN: -- I want to make sure

15 THE WITNESS: Let me read it here.

16 MR. COLEMAN: -- you review it.

17 THE WITNESS: Yeah, thank you.

18 (Reviewing document.) Okay.

19 MR. MITCHELL CONTINUED:

20 Q. So let's just take it in chronological
21 order. So starting at the first email in the
22 chain, at the bottom of the second page, it's an
23 email from Mr. Bilbrey at Agri Stats. The second
24 page at the bottom.

25 A. Okay.

1 Q. Is an email from Mr. Bilbrey at Agri Stats
2 to you, dated June 12, 2013. Do you see that?

3 A. Yes.

4 Q. And in the email he's trying to gauge your
5 interest or persuade Hormel to participate in the
6 pork plant and sales comparisons. Is that fair?

7 A. Yes.

8 Q. And in response to his email, you wrote to
9 Mr. Bilbrey on June 14th, 2013, asking him, "Is it
10 possible to only sign up and receive information on
11 hog processing and fab without sales information?"
12 Do you see that?

13 A. Yes.

14 Q. So you're asking him if you can
15 participate in the hog processing report without
16 sales information. Is that fair?

17 A. That's fair, yes.

18 Q. What is fab?

19 A. Fabrication. It's the breaking -- the
20 breaking up of the hog.

21 Q. So you were inquiring to Agri Stats
22 whether Hormel could participate in the processing
23 and fabrication report, but not the sales report.
24 Is that fair?

25 A. Yes.

1 Q. And directing your attention to the bottom
2 of the first page of the email, Mr. Bilbrey's
3 response to you, dated June 14th, 2013, tells you
4 that you don't -- you and Hormel don't have to
5 participate in the sales comparison, correct?

6 A. That's what he says, yes.

7 Q. In the third paragraph of his email, he
8 writes, "We are offering to let you participate for
9 three months without any of your data being
10 included in other company reports. This would let
11 you see if there are confidentiality concerns
12 without being exposed." Do you see that?

13 A. Yes.

14 Q. Did you share with Mr. Bilbrey or anyone
15 else at Agri Stats a concern that Hormel's data
16 would be exposed if it participated in the Agri
17 Stats sales reports?

18 A. Did we express a concern? I don't
19 specifically remember expressing a concern.

20 Q. Did you have any concern that if Hormel
21 participated in the Agri Stats sales reports, that
22 its data will be exposed to Hormel's competitors?

23 A. Yeah. We had -- yes.

24 Q. You can put that document aside. This the
25 last one.